

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN A. TAYLOR,

Defendant Below-
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below-
Appellee.

§

§ No. 302, 2012

§

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§ Court Below—Superior Court

§ of the State of Delaware

§ in and for New Castle County

§ Cr. ID No. 9408012457

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Submitted: July 20, 2012

Decided: August 9, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 9th day of August 2012, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, John A. Taylor, filed an appeal from the Superior Court's May 10, 2012 order denying his third motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

Court's judgment on the ground that it is manifest on the face of the opening brief that this appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in January 1996, Taylor was found guilty by a Superior Court jury of two counts of Unlawful Sexual Intercourse in the First Degree, five counts of Unlawful Sexual Contact in the Second Degree and one count of Offensive Touching. He was sentenced to a total of thirty-two years and three months of Level V incarceration, to be followed by probation. This Court affirmed Taylor's convictions on direct appeal.² Taylor filed two previous motions for postconviction relief in the Superior Court, both of which the Superior Court denied. This Court affirmed the Superior Court's judgment in both instances.³

(3) In this appeal from the Superior Court's denial of his third postconviction motion, Taylor claims that his indictment contained such numerous and serious defects that the Superior Court had no subject jurisdiction over his case in violation of his constitutional rights. As such, he contends, the procedural bars of Rule 61 should not have applied to his claims and his postconviction motion should have been granted.

¹ Supr. Ct. R. 25(a).

² *Taylor v. State*, 690 A.2d 933 (Del. 1997).

³ *Taylor v. State*, Del. Supr., No. 550, 2000, Holland, J. (Dec. 17, 2001); *Taylor v. State*, Del. Supr., No. 530, 2010, Jacobs, J. (Jan. 21, 2011).

(4) Delaware law provides that, on a motion for postconviction relief, the Superior Court must first consider whether the procedural requirements of Rule 61 have been met before addressing the substantive merits of the movant's claims.⁴ The record before us reflects that the Superior Court properly concluded that Taylor had not met the procedural requirements of Rule 61. Moreover, in the absence of any evidence of constitutional violations in connection with Taylor's convictions, the Superior Court properly concluded that the procedural bars applied to Taylor's claims.⁵

(5) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁴ *Maxion v. State*, 686 A.2d 148, 150 (Del. 1996).

⁵ Super. Ct. Crim. R. 61(i) (4) and (5).